

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ROSY GIRON DE REYES, *et al.*,

Plaintiffs,

v.

WAPLES MOBILE HOME PARK
LIMITED PARTNERSHIP, *et al.*,

Defendants.

Civil No.: 1:16cv563-LO-TCB

**MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO SEAL**

Defendants Waples Mobile Home Park Limited Partnership, Waples Project Limited Partnership, and A. J. Dwoskin & Associates, Inc. (collectively "Defendants"), by counsel, pursuant to Local Civil Rule 5, submit this memorandum of points and authorities in support of Defendants' Motion to Seal.

I. Introduction

Defendants agreed to a Stipulated Protective Order (Dkt. 45), which requires the parties to file information designated as confidential under seal with the Court. Pursuant to the Stipulated Protective Order (Dkt. 45), Plaintiffs have designated certain discovery responses as confidential, and Defendants referred to the substance of such responses within the text of Defendants' memorandum in opposition to Plaintiffs' Motions *in Limine* (Dkt. 379). In addition, Defendants move to seal exhibits to their memorandum in opposition to Plaintiffs' Motions *in Limine* which contain deposition testimony from Defendants' witnesses and references to that testimony within their memorandum. Defendants respectfully move to seal this information.

II. Plaintiffs' Discovery Responses

Pursuant to the Stipulated Protective Order (Dkt. 45), Plaintiffs designated their responses to Defendants' Requests for Admission and their responses to Defendants' Interrogatories as confidential. Defendants referred to the substance of these responses within Defendants' memorandum in opposition to Plaintiffs' Motions *in Limine*. Dkt. 379 at 25-27.

Because Plaintiffs have labeled this information as confidential pursuant to the Stipulated Protective Order (Dkt. 45), and this information has been previously filed under seal (Dkt. 114), Defendants have filed this Motion to Seal pursuant to Local Civil Rule 5.

III. Defendants' Witnesses' Deposition Testimony

Defendants also attached their witnesses' deposition testimony as exhibits to memorandum in opposition to Plaintiffs' omnibus Motions *in Limine* and Defendants have referred to the substance of the testimony within their memorandum. Dkt. 379 at 18, Exs. 2-4.

Because this deposition testimony discusses the business practices of Defendants and this information has likewise been previously filed under seal (Dkt. 146), Defendants have filed this Motion to Seal pursuant to Local Civil Rule 5.

IV. Argument

Ashcraft v. Conoco, Inc., 218 F.3d 282 (4th Cir. 2000), held that documents may be sealed pursuant to district court order when the court: (1) provides notice to the public and gives it an opportunity to object to sealing, (2) considers less drastic alternatives, and (3) provides specific findings in support of the decision to seal and the rejection of alternatives. Those requirements are met here.

The common law right to inspect and copy judicial records and documents is "not absolute." *In re Knight Publ. Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (citing *Nixon v. Warner*

Commc'ns, Inc., 435 U.S. 589, 597 98 (1978)). The Court “has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *Knight*, 743 F.2d at 235.

First, Defendants have concurrently filed a Notice of Filing of Sealing Motion pursuant to Local Civil Rule 5 to be docketed by the Clerk. The Notice will provide the public with an opportunity to object to the sealing of the document in question.

Second, no feasible alternative exists in light of the Stipulated Protective Order (Dkt. 45) requiring information designated confidential pursuant to the Order to be filed with the Court consistent with Local Rule 5 of the Eastern District of Virginia. Where Plaintiffs have designated information as confidential, the utmost discretion is necessary.

In addition, this Court has recognized that sensitive business information merits the sealing of filings. *See, e.g., RegScan, Inc. v. The Bureau of Natl. Affairs, Inc.*, 100 U.S.P.Q.2d 1635 (E.D. Va. 2011) (granting motion to seal information pertaining to commercial trade secrets).

Finally, specific reasons exist to support the rejection of alternatives to sealing the exhibits and portions thereof that are discussed above. The United States Supreme Court has recognized that it is proper for courts to “refuse[] to permit their files to serve . . . as sources of business information that might harm a litigant’s competitive standing” or for other such improper purposes. *Nixon*, 435 U.S. at 598 (citations omitted). Further, because the proposed sealed information involves “private commercial conduct” lacking a substantial relation to any “important governmental or political question,” the interest of maintaining the confidentiality of private parties is significant. *RegScan, Inc.* 100 U.S.P.Q.2d at 1637-1638.

V. Conclusion

For the aforementioned reasons, Defendants respectfully request that the following be sealed: (1) Exhibits 2-4 to Defendants' memorandum in opposition to Plaintiffs' Motions *in Limine* (Dkt. 379); and (2) the redacted portions of Defendants' memorandum in opposition to Plaintiffs' Motions *in Limine* (Dkt. 379).

Date: June 4, 2021

Respectfully submitted,

WAPLES MOBILE HOME PARK LIMITED
PARTNERSHIP, WAPLES PROJECT LIMITED
PARTNERSHIP AND
A. J. DWOSKIN & ASSOCIATES, INC.

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 2021, I caused the foregoing to be filed electronically with the Clerk of the Court using CM/ECF, which will then send a notification of such filing to all counsel of record.

/s/

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